

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RIMINI STREET, INC., a Nevada Corporation;

Plaintiff,

v.

ORACLE INTERNATIONAL
CORPORATION, a California corporation,

Defendant.

ORACLE AMERICA, INC., a Delaware
corporation; and ORACLE INTERNATIONAL
CORPORATION,

Counter-claimants,

v.

RIMINI STREET, INC.; and SETH RAVIN, an
individual,

Counter-defendants.

Case No. 2:14-cv-1699-LRH-PAL

ORDER

Before the court is counter-defendants Rimini Street, Inc. (“Rimini Street”) and Seth Ravin’s (“Ravin”) motion to dismiss counterclaim. ECF No. 190. Counter-claimants Oracle America, Inc. and Oracle International Corporation (collectively “Oracle”) filed an opposition and request to amend counterclaims (ECF No. 206) to which counter-defendants replied (ECF No. 211).

1 **I. Facts and Procedural Background**

2 Defendant/counter-claimant Oracle develops and licenses intellectual property related to
3 computer software and provides related services. Plaintiff/counter-defendant Rimini Street is a
4 company that provides third-party maintenance and support services to companies that license
5 Oracle's software applications. Counter-defendant Ravin is the owner and CEO of Rimini Street.

6 This is the second action between these parties in this district. In the first action, *Oracle*
7 *USA., Inc.; et al. v. Rimini Street, Inc.; et al.*, case no. 2:10-cv-0106-LRH-PAL ("*Oracle*"),
8 Oracle brought several claims against Rimini Street and Ravin for copyright infringement and
9 other business related torts based on a software support service process Rimini Street used to
10 provide support services to customers who had licensed Oracle software.

11 While *Oracle* was proceeding, Rimini Street allegedly changed the process by which it
12 serviced customers who had licensed Oracle software. Subsequently, on October 15, 2014,
13 Rimini Street initiated the present action for declaratory relief seeking a declaration from the
14 court that its new process, enacted after July 31, 2014, does not infringe Oracle's software
15 copyrights. *See* ECF No. 1. In response, Oracle filed an answer in which it alleged various
16 counterclaims against counter-defendants, including a claim for copyright infringement for
17 Rimini Street's new support service model. ECF No. 21. Subsequently, Oracle filed amended
18 counterclaims. ECF No. 173. Thereafter, counter-defendants filed the present motion to dismiss
19 Oracle's first counterclaim for copyright infringement as it relates to Oracle's E-Business Suite
20 copyrighted software. ECF No. 190.

21 **II. Discussion**

22 In their motion, counter-defendants contend that Oracle has failed to specifically allege
23 how they infringed Oracle's E-Business Suite copyrighted software and, instead, only alleges
24 bare and conclusory allegations that counter-defendants engaged in general copyright
25 infringement. In opposition, Oracle has requested leave to amend its counterclaims to add
26 additional supporting allegations to this claim. *See* ECF No. 206.

27 A party may amend its pleadings after a responsive pleading has been filed by leave of
28 court. FED. R. CIV. P. 15(a)(2). Leave of court to amend should be freely given when justice so

1 requires and when there is no undue delay, bad faith, or dilatory motive on the part of the moving
2 party. *See Wright v. Incline Village General Imp. Dist.*, 597 F.Supp.2d 1191 (D. Nev. 2009);
3 *DCD Programs, LTD v. Leighton*, 883 F.2d 183 (9th Cir. 1987). Here, the court finds there is no
4 undue delay, bad faith, or dilatory motive on behalf of Oracle in requesting leave to amend.
5 Further, the court finds that this matter is still early in litigation and counter-defendants would
6 not be prejudiced by allowing amendment. Accordingly, the court shall deny counter-defendants'
7 motion and grant Oracle leave to amend its counterclaims.

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9 IT IS THEREFORE ORDERED that counter-defendants' motion to dismiss
10 (ECF No. 190) is DENIED without prejudice.

11 IT IS FURTHER ORDERED that counter-claimants shall have ten (10) days after entry
12 of this order to file an amended counterclaim.

13 IT IS SO ORDERED.

14 DATED this 14th day of October, 2016.

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17 LARRY R. HICKS
18 UNITED STATES DISTRICT JUDGE
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